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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,336	11/04/2003	John-Paul Francis Cherry	JPC001C1	4922
7590	10/18/2004		EXAMINER	
JOHN-PAUL F. CHERRY 3203 OAK BOUGH LN. MISSOURI CITY, TX 77459-4655			VAN, QUANG T	
			ART UNIT	PAPER NUMBER
			3742	

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/701,336	CHERRY, JOHN-PAUL FRANCIS
Examiner	Art Unit	
Quang T Van	3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 August 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 21-29 is/are allowed.
- 6) Claim(s) 1-3,5,6,8-10,12,13,15-19 and 30 is/are rejected.
- 7) Claim(s) 4,11 and 20 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 04 November 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5-6, 8-10, 12-13, 15-19, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benze et al (DE 3937720A) in view of Spector (US 5,007,529). Benze discloses substantially all features of the claimed invention except an enclosure. Spector discloses an enclosure (10) formed of thermal insulation material permeable to microwave energy and having a vent therein (abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Benze an enclosure as taught by Spector in order to contain a microwave-safe material for effecting a cleaning process. With regard to claim 16, the period and the second period are each about 5 minutes. Benze and Spector do not disclose how long each is for the period and the second period. It would have been obvious to one having ordinary skill in the art to determine the period and the second period are each about 5 minutes. Since determining how long the period and the second is depending on each of cleaning process, which is suitable to the users. With regard to claims 7 and 14, the fragrance is selected from the group consisting of lemon, citrus or pine. Spector only discloses a fragrance is potpourri. It would have been obvious to one having ordinary skill in the art to have a fragrance being selected from the group consisting of

lemon, citrus or pine. Since lemon, citrus or pine is one of a fragrance which can be used for freshens the air.

3. Claims 21-29 are allowed.

4. Claims 4, 11 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter: the enclosure is deformable to enable the surfactant solution in fluid communication with the interior of the microwave oven as recited in claims 4, 11, 20 and 29 ; and in combination the steps of placing a cleaning apparatus in the microwave oven, wherein the cleaning apparatus comprises a cleaning article and a surfactant solution at least partially surrounded by an enclosure, heating the cleaning apparatus for a time period , evaporating at least a portion of the surfactant solution to form a vapor, and emitting the vapor from the cleaning apparatus as recited in claims 21-28.

Response to Amendment

6. Applicant's arguments filed 8/25/2004 have been fully considered but they are not persuasive.

Applicant argues "there is no suggestion or motivation in either Benze nor Spector, either alone or in combination, to describe the present claimed invention" recited in Remarks, page 8, lines 27-28, and Applicant also argues "Benze and Spector, alone or in combination, do not teach, show or suggest an apparatus for cleaning an interior of a microwave oven..." recited in Remarks, page 9, lines 14-15. The examiner

disagrees. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Benze discloses substantially all features of the claimed invention except an enclosure. Spector discloses an enclosure (10) formed of thermal insulation material permeable to microwave energy and having a vent therein (abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Benze an enclosure as taught by Spector in order to contain a microwave-safe material for effecting a cleaning process. Further, the examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya*, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. *In re McLaughlin*, 170 USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. *In re Bozek*, 163 USPQ 545 (CCPA 1969).

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang T Van whose telephone number is 703-306-9162. The examiner can normally be reached on 8:00Am 7:00Pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 703-305-5766. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

QV
QV
October 7, 2004

Quang T Van
Quang T Van
Primary Examiner
Art Unit 3742